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Attorneys for Plaintiff
IPAP, LLC
DBA Aspen Dental of Cache Valley

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF UTAH**

**IPAP, LLC, DBA ASPEN DENTAL OF
CACHE VALLEY**

Plaintiff,

v.

ASPEN DENTAL MANAGEMENT, INC.,

Defendant.

COMPLAINT

Case No.

DEMAND FOR JURY TRIAL

Plaintiff IPAP, LLC, DBA Aspen Dental of Cache Valley (AD Cache Valley), by and through its undersigned counsel and pursuant to Fed. R. Civ. P. 7(a)(1), hereby submits this Complaint against Defendant Aspen Dental Management, Inc. (AD Management).

THE PARTIES

1. AD Cache Valley is a Utah limited liability company having a place of business at 170 E 1400 N, Logan, Utah 84341.

2. On information and belief, AD Management is a Delaware corporation having a place of business at 281 Sanders Creek Parkway, East Syracuse, New York 13057.

JURISDICTION AND VENUE

3. This is a civil action for unfair competition, trademark infringement arising under the common law and the Lanham Act, and in particular 15 U.S.C. § 1125, as well as deceptive trade practices under Utah law. Accordingly, this Court has subject matter jurisdiction over this action pursuant to at least 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331, 1332, 1338(a) and (b), and 1367.

4. This Court is empowered to exercise supplemental jurisdiction over claims under the common law of the State of Utah pursuant to 28 U.S.C. § 1338(b) and § 1367(a).

5. This Court has personal jurisdiction over AD Management under Utah Code § 78B-3-205 because AD Cache Valley's claims arise from AD Management's transacting business in this state, contracting to supply services in this state, and causing injury to AD Cache Valley in this state.

6. AD Management has contracted to supply services and is promoting services within the State of Utah, including within the Northern District. AD Management plans to open an office providing dental services, using the name and mark ASPEN DENTAL, at 4099 Riverdale Road, Riverdale, Utah 84405. A true and correct copy of a page from AD Management's website, advertising its planned Riverdale location, is attached hereto as Exhibit A.

7. AD Management has advertised that it plans to expand and open another office in the Northern District, in Cache Valley, Utah. A true and correct copy of an advertisement from AD Management, promoting the upcoming opening of a Logan, Utah, location, is attached hereto as Exhibit B.

8. AD Management has injured AD Cache Valley and committed acts of infringement and other misconduct, including by maintaining a website promoting AD Management's identical and highly similar services under the ASPEN DENTAL name and mark, which AD Cache Valley owns, to consumers in the Northern District of Utah. Further, AD Management has held itself out as AD Cache Valley and deliberately and willfully attempted to trade on the goodwill of AD Cache Valley, including by using AD Cache Valley's address and phone number when marketing the launch of an office in Logan, Utah. In addition, AD Management has injured AD Cache Valley, and manifested actual confusion and the inevitability of consumer confusion, by using AD Cache Valley's address and phone number when marketing the launch of an office in Logan, Utah.

9. Venue is proper in the Northern District of Utah in accordance with 28 U.S.C. § 1391(b)(2) at least because a substantial part of the events and harm giving rise to AD Cache Valley's claims occurred in the Northern District of Utah.

BACKGROUND

10. AD Cache Valley has developed and maintains a reputation for providing high-quality dental and orthodontic services, as well as other related goods and services.

11. For years prior to the August 1, 2006, first use date claimed by AD Management in its U.S. Trademark Registration No. 3304705, and since at least 1999, AD Cache Valley has used the mark ASPEN DENTAL continuously for the marketing, sale, and provision of its dental, orthodontic, and other dentistry-related products and services in United States interstate commerce. A true and correct copy of an excerpt from the Logan Business License Clerk, obtained November 8, 2012, and showing AD Cache Valley's business license from 1999, is attached hereto as Exhibit C.

12. AD Cache Valley markets, sells, and provides dental, orthodontic, and other dentistry-related products and services using the ASPEN DENTAL name and mark at its location in Cache Valley, including to consumers in the Northern District of Utah.

13. In addition to other marketing channels, AD Cache Valley markets its dental, orthodontic, and other dentistry-related products and services using the ASPEN DENTAL mark utilizing the Internet, including AD Cache Valley's website accessible at aspendds.com and via third-party websites. A true and correct copy of the "Contact Us" page from AD Cache Valley's website, showing representative use of the ASPEN DENTAL name and mark, is attached hereto as Exhibit D.

14. In addition to other marketing channels, AD Cache Valley markets its dental, orthodontic, and other dentistry-related products and services using the ASPEN DENTAL mark on social media platforms.

15. AD Cache Valley has invested substantial time, effort, and expense in extensive promotion throughout Cache Valley of the goods and services provided under its ASPEN

DENTAL mark. As a result, considerable goodwill has attached to the ASPEN DENTAL mark to AD Cache Valley's benefit.

16. By virtue of AD Cache Valley's continuous use in commerce of its ASPEN DENTAL mark in connection with its dental, orthodontic, and other dentistry-related products and services, such products and services have become well and favorably known to the relevant trade and public, particularly in Cache Valley.

17. The ASPEN DENTAL mark is representative of AD Cache Valley's reputation for producing and providing high quality products and services and symbolizes the goodwill of AD Cache Valley, which is invaluable.

18. AD Cache Valley's ASPEN DENTAL mark is inherently distinctive as applied to AD Cache Valley's goods and services and is entitled to strong protection.

AD MANAGEMENT'S INFRINGEMENT AND MISCONDUCT

19. On information and belief, AD Management markets, sells, and provides dental, orthodontic, and other dentistry-related products and services using the identical ASPEN DENTAL name and mark.

20. Dental, orthodontic, and other dentistry-related products and services marketed, sold, and provided using the ASPEN DENTAL name and mark are marketed utilizing the Internet at least at aspendental.com, which upon information and belief is owned by AD Management.

21. A true and correct copy of a page from the aspendental.com website, showing representative use of the ASPEN DENTAL name and mark to market and sell dental,

orthodontic, and other dentistry-related products and services in the Northern District of Utah is attached hereto as Exhibit A.

22. AD Cache Valley has priority of use in the ASPEN DENTAL mark. AD Cache Valley has continuously used the ASPEN DENTAL mark to market, sell, and provide its dental, orthodontic, and other dentistry-related products and services in Cache Valley for years prior to the date on which AD Management began marketing, selling, and distributing its competing dental, orthodontic, and other dentistry-related products and services in the United States.

23. On information available from U.S. Trademark Registration No. 3304705 for the

AspenDental

composite mark , which lists on its face AD Management as its owner, and belief, AD Management first used the ASPEN DENTAL name and mark in connection with “cosmetic dentistry; dentistry” services on January 30, 2011.

24. AD Management has been aware of AD Cache Valley since at least October 18, 2012. On October 18, 2012, counsel for AD Management sent to AD Cache Valley a demand letter alleging that AD Cache Valley’s use of its ASPEN DENTAL name and mark infringed AD Management’s rights in the same mark. A true and correct copy of the demand letter is attached hereto as Exhibit E.

25. AD Management has admitted that AD Cache Valley’s “rights in the area where it is doing business appear to be superior to [AD Management’s] rights.” A true and correct copy of correspondence from a representative of AD Management on November 13, 2012, in which the above quote appears, is attached hereto as Exhibit F.

26. Though AD Management initially expressed interest “in purchasing [AD Cache Valley’s] rights to the name,” AD Management never completed such a purchase.

27. AD Cache Valley’s senior common law rights in the ASPEN DENTAL name and trademark are valid and subsisting, including in the Northern District of Utah, and are particularly strong in Cache Valley.

28. AD Management plans to expand its offerings to the Northern District of Utah, including in Cache Valley. AD Management has advertised on its own website that a location in Riverdale, Utah, is “opening soon.” A true and correct copy of a page from AD Management’s website advertising the Riverdale, Utah, location is attached hereto as Exhibit G. AD Management has further advertised with a local news outlet in Cache Valley, including on its third-party website, that another location in Logan, Utah, is also “coming soon.” A true and correct copy of a page from the third-party website advertising the Logan, Utah, location is attached hereto as Exhibit B.

29. When advertising AD Management’s planned Logan, Utah, location, the listed address and phone number, 170 E 1400 N, Logan, Utah 84341, 435-557-8802, are those of AD Cache Valley, not of AD Management. A true and correct copy of the Google Maps listing for AD Cache Valley, showing its address and phone number, and for comparison with the address and phone number held out in AD Management’s advertisement in Exhibit B as being those of AD Management, is attached hereto as Exhibit H.

30. Links to social media accounts held out by AD Management in the advertisement of Exhibit B as being owned and controlled by AD Management, including an instruction to

“Visit us at:” the linked accounts, resolve to social media accounts actually owned and controlled by AD Management.

31. AD Management has misrepresented the origin of its services and commercial activities by representing that AD Cache Valley’s address, phone number, and social media accounts belong to AD Management, as shown in Exhibit B.

32. In the alternative, and should AD Management deny that the misrepresentations in AD Management’s advertisement originate from a source other AD Management, the conflation of AD Cache Valley with AD Management when holding out the identified address, phone number, and social media accounts as those of AD Management demonstrates that confusion, mistake, and deception regarding the affiliation, connection, or association of AD Management with AD Cache Valley as to the origin, sponsorship, or approval of AD Management’s goods, services, and commercial activities by AD Cache Valley is likely and has occurred.

33. AD Management’s plans to expand into markets where AD Management has admitted that AD Cache Valley has priority in the ASPEN DENTAL name and mark are knowing, willful, intentional, and malicious.

34. The dental, orthodontic, and other dentistry-related products and services marketed, sold, and provided by AD Management using the ASPEN DENTAL mark are identical or closely related to the dental, orthodontic, and other dentistry-related products and services marketed, sold, and provided by AD Cache Valley using its ASPEN DENTAL mark.

35. AD Management admitted that its services are identical to those of AD Cache Valley in its October 18, 2012, letter, as shown in Exhibit E.

36. The channels of distribution for the dental, orthodontic, and other dentistry-related products and services marketed, sold, and provided by AD Management using the ASPEN DENTAL mark are identical or closely related to the channels of distribution for the dental, orthodontic, and other dentistry-related products and services marketed, sold, and provided by AD Cache Valley using its ASPEN DENTAL mark.

37. AD Management's dental, orthodontic, and other dentistry-related products and services marketed, sold, and provided using the ASPEN DENTAL mark are, or would be, directed to the same customer segment of the consuming public as AD Cache Valley's dental, orthodontic, and other dentistry-related products and services marketed, sold, and provided using its ASPEN DENTAL mark.

38. AD Management markets and offers provision of dental, orthodontic, and other dentistry-related products and services using the ASPEN DENTAL mark to consumers throughout the United States and in the Northern District of Utah, including on the Internet and using social media.

39. AD Management's ASPEN DENTAL mark is identical or substantially similar to AD Cache Valley's ASPEN DENTAL mark in sound, appearance, connotation, and commercial impression.

40. AD Management admitted that the APSEN DENTAL mark is identical to AD Cache Valley's ASPEN DENTAL mark in its October 18, 2012, letter, as shown in Exhibit E.

41. AD Management's ASPEN DENTAL mark is identical in spelling, pronunciation, number of syllables, appearance, meaning, and commercial impression to AD Cache Valley's ASPEN DENTAL mark.

42. AD Management's ASPEN DENTAL mark is confusingly similar to AD Cache Valley's ASPEN DENTAL mark.

43. AD Management's use of the ASPEN DENTAL mark is likely to cause confusion, mistake, or deception as to the source of origin, sponsorship, or approval of AD Management's goods and services.

44. AD Management's use of the ASPEN DENTAL mark has been the source of actual confusion, mistake, or deception as to the source of origin, sponsorship, or approval of AD Management's goods and services.

45. Due to the confusingly similar nature of AD Cache Valley's ASPEN DENTAL mark and AD Management's ASPEN DENTAL mark and the similarity of the goods and services offered, sold, or otherwise provided under the respective marks, the relevant consuming public and the consuming public generally are likely to believe, and have been led to believe, that AD Management's goods and services are those of AD Cache Valley or are in some way connected with, licensed by, or otherwise approved by AD Cache Valley.

46. Such confusion, mistake, and/or deception are likely to damage and injure the purchasing public and AD Cache Valley.

47. AD Management's use of the ASPEN DENTAL mark is without the consent or approval of AD Cache Valley.

48. AD Management has had actual notice of, and has explicitly acknowledged, AD Cache Valley's prior rights in the ASPEN DENTAL mark in the Northern District of Utah, and especially in Cache Valley, since at least November 13, 2012, as reflected in Exhibit F.

49. AD Management's announced plans to use of the ASPEN DENTAL name and mark to market, sell, and provide its competing dental, orthodontic, and other dentistry-related products and services in the Northern District of Utah and in Cache Valley are knowing, willful, intentional, and malicious.

**FIRST CAUSE OF ACTION
INFRINGEMENT OF COMMON LAW TRADEMARKS
UNDER SECTION 43(A) OF THE LANHAM ACT, 15 U.S.C. § 1125(A)**

50. AD Cache Valley repeats and incorporates by reference the allegations in Paragraphs 1 through 48, as set forth above, as though fully set forth herein.

51. AD Management is marketing and has plans to sell and provide dental, orthodontic, and other dentistry-related products and services in the Northern District of Utah and in Cache Valley using the ASPEN DENTAL mark without the consent or authorization of AD Cache Valley.

52. AD Management's ASPEN DENTAL mark is identical and confusingly similar to AD Cache Valley's prior ASPEN DENTAL mark.

53. AD Management's use of the ASPEN DENTAL mark is likely to confuse or deceive, and has confused and deceived, consumers as to the affiliation, connection, or association of AD Management with AD Cache Valley, or cause mistake, and has caused

mistake, as to the origin, sponsorship, or approval of AD Management's dental, orthodontic, and other dentistry-related products and services by AD Cache Valley.

54. AD Management's commercial advertising and promotion misrepresents the geographic origin of AD Management's goods and services as being those of AD Cache Valley.

55. The goodwill of AD Cache Valley's prior ASPEN DENTAL mark is of substantial value, and AD Cache Valley is suffering, and will continue to suffer, irreparable harm should AD Management continue its unauthorized advertising or be permitted to open offices and begin selling and providing goods and services in the Northern District of Utah and in Cache Valley using the ASPEN DENTAL mark.

56. AD Management's unauthorized use of the ASPEN DENTAL mark to market, and plans to sell and provide, dental, orthodontic, and other dentistry-related products and services is intended to, and will, divert to AD Management the benefit of the reputation and goodwill symbolized by AD Cache Valley's ASPEN DENTAL mark, which should rightfully and exclusively inure to the benefit of AD Cache Valley.

57. AD Management's acts constitute infringement of AD Cache Valley's common law trademarks under 15 U.S.C. § 1125(a).

58. AD Management's unauthorized and infringing acts set forth above constitute intentional and willful infringement of AD Cache Valley's rights in its common law trademark.

59. Unless and until AD Management is enjoined by this Court, AD Management will continue to commit acts of trademark infringement, will continue to confuse the public, and will continue to cause irreparable harm to AD Cache Valley.

60. AD Management's acts have been, are, and will continue to be knowing, deliberate, willful, intentional, and malicious in disregard of AD Cache Valley's rights, entitling AD Cache Valley to actual damages as well as reasonable attorneys' fees under 15 U.S.C. § 1117.

**SECOND CAUSE OF ACTION
FEDERAL UNFAIR COMPETITION AND FALSE ADVERTISING
UNDER SECTION 43(A) OF THE LANHAM ACT, 15 U.S.C. § 1125(A)**

61. AD Cache Valley repeats and incorporates by reference the allegations in Paragraphs 1 through 59, as set forth above, as though fully set forth herein.

62. AD Management's unauthorized sales of dental, orthodontic, and other dentistry-related products and services using the ASPEN DENTAL mark is likely to confuse or deceive, and has confused and deceived, consumers as to the affiliation, connection, or association of AD Management with AD Cache Valley, or cause mistake, and has caused mistake, as to the origin, sponsorship, or approval of AD Management's dental, orthodontic, and other dentistry-related products and services by AD Cache Valley.

63. AD Management's commercial advertising and promotion misrepresents the geographic origin of AD Management's goods and services as being those of AD Cache Valley.

64. AD Management's misconduct constitutes false advertising and unfair competition under 15 U.S.C. § 1125(a)(1).

65. AD Cache Valley believes that AD Cache Valley has been and is likely to be damaged by AD Management's unauthorized marketing and promotion, and any sales and

provision, of dental, orthodontic, and other dentistry-related products and services using the ASPEN DENTAL mark.

66. AD Management's unauthorized and infringing acts set forth above have caused, are causing, and will continue to cause irreparable harm to AD Cache Valley.

67. Unless and until AD Management is enjoined by this Court, AD Management will continue to commit acts of false advertisement and unfair competition, will continue to confuse the public, and will continue to cause irreparable harm to AD Cache Valley.

68. AD Management's acts have been, are, and will continue to be knowing, deliberate, willful, intentional, and malicious in disregard of AD Cache Valley's rights, entitling AD Cache Valley to actual damages as well as reasonable attorneys' fees under 15 U.S.C.

§ 1117.

**THIRD CAUSE OF ACTION
DECEPTIVE TRADE PRACTICES AND FALSE ADVERTISING
UNDER UTAH CONSUMER SALES PRACTICES ACT UTAH CODE 13-11-1 ET SEQ.
AND UTAH TRUTH IN ADVERTISING ACT UTAH CODE 13-11A-1 ET SEQ.**

69. AD Cache Valley repeats and incorporates by reference the allegations in Paragraphs 1 through 67, as set forth above, as though fully set forth herein.

70. By its unauthorized and infringing acts, AD Management is engaging in unfair and deceptive trade practices in violation of the Utah Consumer Sales Practices Act, Utah Code 13-11-1 et seq. Among other misconduct, AD Management's actions have caused and are causing confusion, likelihood of confusion, deception, and/or misunderstanding of consumers as to the affiliation, connection, or association of AD Management with AD Cache Valley, or have

caused and are causing mistake as to the origin, sponsorship, or approval of AD Management's dental, orthodontic, and other dentistry-related products and services by AD Cache Valley.

71. AD Management's commercial advertising and promotion misrepresents the geographic origin and location of AD Management's business as being that of AD Cache Valley.

72. AD Management is further engaging in false advertising in violation of the Utah Truth in Advertising Act, Utah Code 13-11a-1 et seq. Among other misconduct, AD Management's actions has passed off and are passing off AD Management's goods and services as those of AD Cache Valley, have caused and are causing confusion, likelihood of confusion, deception, and/or misunderstanding of consumers as to the affiliation, connection, or association of AD Management with AD Cache Valley, or have caused and are causing mistake as to the origin, sponsorship, or approval of AD Management's dental, orthodontic, and other dentistry-related products and services by AD Cache Valley.

73. AD Management's marketing and promotion, and any sales and provision, of dental, orthodontic, and other dentistry-related products and services using the ASPEN DENTAL mark has affected and continues to affect commerce, including commerce in Utah.

74. AD Management's deceptive and unfair acts set forth above have caused, are causing, and will continue to cause irreparable harm to AD Cache Valley's business reputation and goodwill for which there is no adequate remedy at law.

75. Unless and until AD Management is enjoined by this Court, AD Management will continue to commit acts of deceptive trade practices and false advertising, will continue to confuse the public, and will continue to cause irreparable harm to AD Cache Valley.

76. AD Management's acts have been, are, and will continue to be knowing, deliberate, willful, intentional, and malicious in disregard of AD Cache Valley's rights, entitling AD Cache Valley to actual damages, corrective advertising, as well as reasonable attorneys' fees.

JURY DEMAND

77. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, AD Cache Valley demands a trial by jury on all matters and issues triable by a jury.

PRAYER FOR RELIEF

WHEREFORE, AD Cache Valley prays for judgment as follows on its Complaint:

A. That AD Management's marketing, sales, and provision of dental, orthodontic, and other dentistry-related products and services (and all associated services) in all forms using the ASPEN DENTAL mark in the Northern District of Utah and in Cache Valley constitutes trademark infringement under 15 U.S.C. § 1125(a), false advertising under 15 U.S.C. § 1125(a), and deceptive trade practice under Utah law;

B. That AD Management and its owners, parent companies, subsidiary companies, related companies, successors, assigns, officers, directors, agents, employees, attorneys, and all persons or entities in active concert, participation, or privity with the foregoing, be preliminarily and permanently enjoined from:

- a. Marketing, selling, or providing dental, orthodontic, and other dentistry-related products and services using the ASPEN DENTAL mark, including all phonetic equivalents, or any other names, marks, slogans, logos, designs, Internet domain names, or social media account names that are likely to cause confusion, mistake,

or deception with AD Cache Valley's ASPEN DENTAL mark, in the Northern District of Utah and in Cache Valley;

- b. Otherwise acting to induce or render likely the inducement of a mistaken belief that AD Management and/or its goods or services are in any way affiliated with, connected to, associated with, or sponsored by AD Cache Valley or its goods or services, and otherwise acting to cause confusion or render confusion likely with respect to AD Cache Valley's ASPEN DENTAL mark;
 - c. Trading on the goodwill associated with AD Cache Valley's ASPEN DENTAL mark and passing off AD Management's goods or services as those of, authorized by, or approved by AD Cache Valley;
 - d. Injuring AD Cache Valley's business reputation or the goodwill associated with AD Cache Valley's ASPEN DENTAL mark and from otherwise unfairly competing with AD Cache Valley in any manner whatsoever;
 - e. Marketing, selling, or distributing any goods or services under a name, mark, brand, logo, design, symbol, Internet domain name, or social media account name confusingly similar to AD Cache Valley's ASPEN DENTAL mark, including but not limited to displaying promotional or marketing materials on outlets such as websites, social media platforms, or other sources available over the Internet targeting the Northern District of Utah and Cache Valley;
- C. That AD Management be ordered to deliver up for destruction all materials, including but not limited to labels, signs, prints, packaging, wrappers, receptacles, brochures,

advertisements, literature, promotions, displays, catalogs, products (and all plates, molds, matrices, and other means of making the same), and all other matter in the custody or under the control of AD Management bearing or displaying the ASPEN DENTAL mark or any confusingly similar marks and targeting the Northern District of Utah and Cache Valley in accordance with 15 U.S.C. § 1118;

D. For any domain names and social media account names in its possession or under its control and incorporating the ASPEN DENTAL mark and targeting the Northern District of Utah and Cache Valley, that AD Management be ordered to transfer registrations for and ownership of the domains and social media accounts to AD Cache Valley or to terminate such registrations and ownership;

E. For any Internet resources not reproducing the ASPEN DENTAL mark in the domain name or in the account name, that AD Management be ordered to permanently remove from all Internet resources in its possession or under its control, including websites and social media accounts, all uses of the ASPEN DENTAL mark, including images of dental, orthodontic, and other dentistry-related products and services bearing the ASPEN DENTAL mark, targeting the Northern District of Utah and Cache Valley;

F. That AD Management be ordered to recall from all customers, vendors, sales persons, and authorized agents all materials, including but not limited to, product packaging, brochures, advertisements, promotions, digital files, products, and all other matter bearing and/or displaying the ASPEN DENTAL mark and targeting the Northern District of Utah and Cache Valley;

G. That AD Management be ordered to notify all customers, vendors, sales persons, and authorized agents of the Judgment in this case;

H. That AD Management be directed to provide a complete accounting to AD Cache Valley for any and all profits realized from the sale of products or services using the ASPEN DENTAL mark in the Northern District of Utah and in Cache Valley from the first date of use through the date of the Judgment;

I. That AD Management be ordered to pay for and distribute corrective advertising to mitigate the irreparable damage to AD Cache Valley's reputation and goodwill;

J. That AD Cache Valley be awarded its actual compensatory damages and AD Management's profits, in an amount to be determined at trial;

K. That the award of damages to AD Cache Valley be trebled in view of AD Management's knowing, deliberate, willful, intentional, and malicious infringement of AD Cache Valley's rights;

L. That AD Cache Valley be awarded punitive damages in view of AD Management's knowing, deliberate, willful, intentional, and malicious infringement of AD Cache Valley's rights, in an amount to be determined at trial;

M. That the Court Declare this to be an exceptional case and that AD Cache Valley be awarded all reasonable attorneys' fees, costs, and disbursements incurred by AD Cache Valley as a result of this action in accordance with 15 U.S.C. § 1117(a);

N. That AD Cache Valley be awarded all damages available under Utah law; and

O. That AD Cache Valley be awarded any such other and further relief as this Court deems just and proper.

DATED this 22nd day of December, 2023.

/James C. Watson/
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Attorneys for Plaintiff AD Cache Valley

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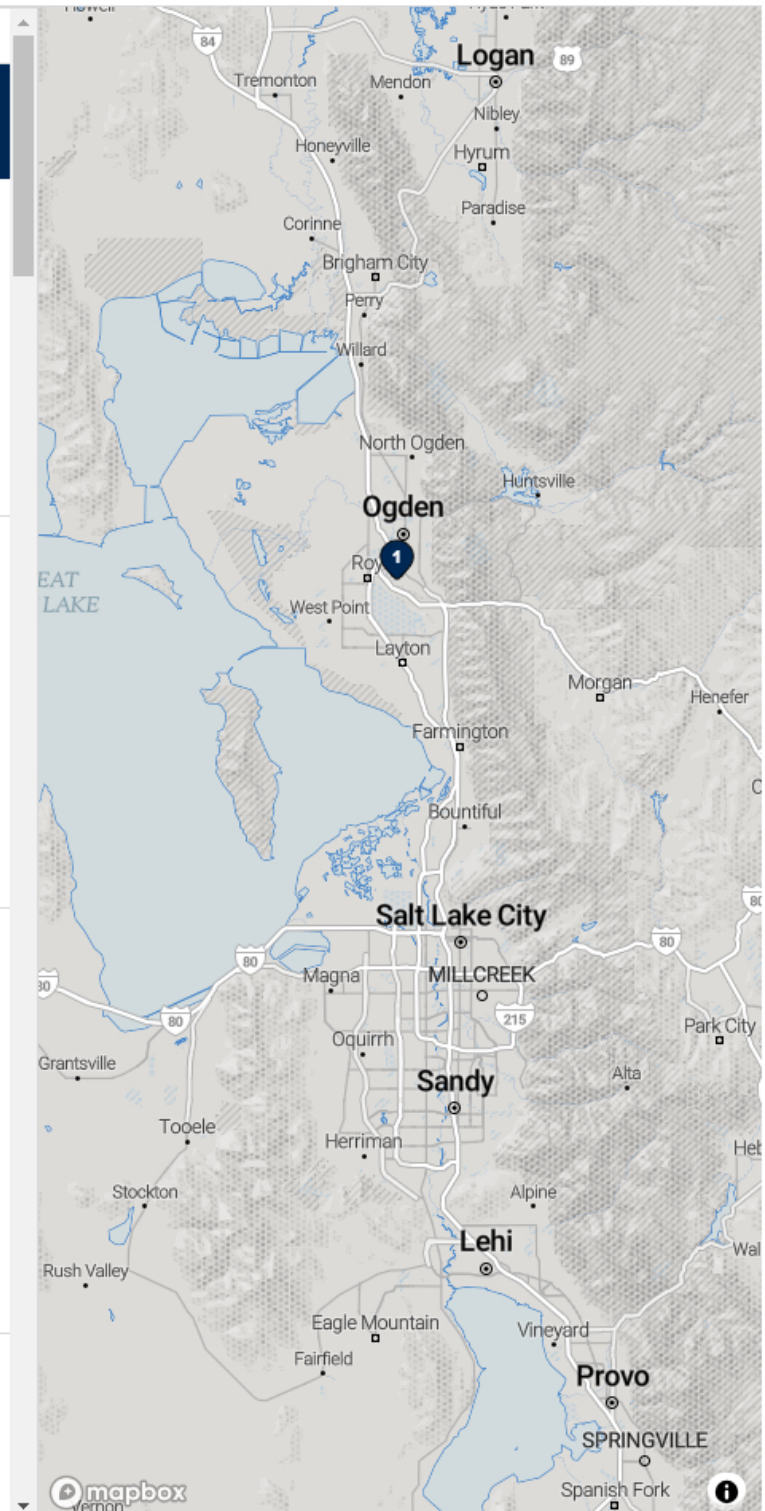
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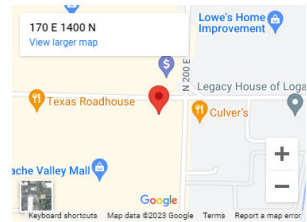
Aspen Dental

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License Number	Business	DBA	Physical Address	City	State	Zip	Business Mailing City	Business Mailing State	Business Mailing Zip	Phone	Last First	Classification	Submit	Issue	Renewal	Expiration	SIC	NATCS	Outstanding Fees	Total Fees	Days Delinquent	Last Payment	Status	Outstanding Interactions
OL-02-10005	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	LOGAN, UT 84341	UT	84341	(435) 753-4400	ASPER DENIAL OF CACHE	HTE - PAST	01/18/2007	04/03/2007	12/17/2007	12/31/2007	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-08-10005	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	LOGAN, UT 84341	UT	84341	(435) 753-4400	ASPER DENIAL OF CACHE	Commercial Level 1 (<10,000 SqFt)	12/17/2007	12/11/2008	12/24/2008	12/31/2008	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-09-10005	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	LOGAN, UT 84341	UT	84341	(435) 753-4400	ASPER DENIAL OF CACHE	Commercial Level 1 (<10,000 SqFt)	12/24/2008	01/05/2009	01/25/2010	12/31/2009	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-10-10005	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	LOGAN, UT 84341	UT	84341	(435) 753-4400	ASPER DENIAL OF CACHE	Commercial Level 1 (<10,000 SqFt)	01/25/2010	01/25/2010	12/16/2010	12/31/2010	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-11-10005	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	LOGAN, UT 84341	UT	84341	(435) 753-4400	ASPER DENIAL OF CACHE	Commercial Level 1 (<10,000 SqFt)	12/16/2010	12/16/2010	12/28/2011	12/31/2011	8021 Offices and Clinics of Dentists	621210	0.00	0.00			12/16/2010 INACT	
OL-12-10005	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	LOGAN, UT 84341	UT	84341	(435) 753-4400	ASPER DENIAL OF CACHE	Commercial Level 1 (<10,000 SqFt)	12/28/2011	12/28/2011	12/28/2011	12/31/2011	8021 Offices and Clinics of Dentists	621210	100.00	100.00			12/28/2011 Active	
OL-01-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	09/24/1999	12/03/1999	02/01/2000	12/31/1999	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-02-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	02/01/2000	02/08/2000	01/04/2001	12/31/2000	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-03-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	01/04/2001	01/04/2001		12/31/2001	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Inactive	
OL-04-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	11/09/2001	11/09/2001	02/07/2002	12/31/2001	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-05-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	02/07/2002	02/08/2002	01/14/2003	12/31/2002	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-06-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	01/14/2003	01/15/2003	01/14/2004	12/31/2003	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-07-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	01/14/2004	01/15/2004	12/08/2004	12/31/2004	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-08-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	12/08/2004	12/09/2004	12/20/2005	12/31/2005	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Reviewed	
OL-09-0525	ASPER DENIAL OF CACHE		1451 N LOGAN, UT 84341	UT	84341	200	HYDE PARK, UT 84318	UT	84318	(435) 753-4400	DENIAL OF CACHE	HTE - PAST	12/20/2005	12/21/2005		12/31/2006	8021 Offices and Clinics of Dentists	621210	0.00	0.00			Inactive	

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Provided By: Joyce Creech, Business License Clerk, Logan City, Utah 84301 on November 8, 2012

http://lino/comdev/secure/Controller?action=licenseSelect&forceFilter=yes

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Dr. Cameron, Dr. Wegener, and their team at Aspen Dental of Cache Valley in Logan, Utah, provide exceptional dental care while building strong relationships with each patient. They offer cosmetic dentistry, dental implants, orthodontics, family dentistry and so much more. They serve patients in Cache Valley including the cities of Logan, North Logan, Hyde Park, Smithfield, Hyrum, Nibley, and Wellsville, UT and zip codes 84318, 84319, 84321, 84332, 84335 and 84341.

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October 18, 2012

via OVERNIGHT DELIVERY

ASPEN DENTAL OF CACHE VALLEY
1451 North 200 East – Suite 200
Logan, Utah 84341

ATTN: Paul Mackley, DDS

RE: *Unauthorized Use of ASPEN DENTAL Service Mark*

Dear Dr. Mackley:

I am an attorney with Aspen Dental Management, Inc. ("ADMI"). As you may be aware, ADMI provides support services to over 340 dental practices under the ASPENDENTAL brand name in 22 states, and is rapidly expanding its reach throughout the country. To support these dental practices, ADMI has national advertising campaigns, some of which undoubtedly reach the Logan, Utah market.

ADMI owns numerous United States trademark registrations for the mark ASPENDENTAL and variants thereof, as listed on the accompanying table (collectively, the "ASPENDENTAL family of marks"). Through its strict quality control standards, ADMI has developed immeasurable goodwill in its ASPENDENTAL family of marks.

ADMI has recently become aware that your dental practice is operating under the name "Aspen Dental of Cache Valley." In view of the identity of the marks and services, your practice's use of a mark similar to the ASPEN DENTAL mark is likely to cause consumer confusion, mistake, or deception, or to lead to a belief that your practice is affiliated with or sponsored by ADMI. In addition, your use of the similar mark in connection with your practice may lead to the dilution of the goodwill associated with ADMI's valuable ASPENDENTAL family of marks. For your information, each of these consequences are prohibited under the Lanham Act, 15 U.S.C. § 1051, et seq., as well as miscellaneous state laws and the common law of unfair competition. Accordingly, we hereby demand that you immediately cease and desist from further use of the term "Aspen Dental of Cache Valley" or similar variations in connection with your dental services.

As these types of matters are preferably resolved as expeditiously as possible, we require that you confirm to us that, no later than November 30, 2012, you will immediately cease and desist from all further use of "Aspen Dental of Cache Valley" as a service mark or any other similar names or marks incorporating the word "Aspen" in connection with your dentistry services.



ASPEN DENTAL OF CACHE VALLEY

October 18, 2012

Page 2 of 3

You may sign and return a copy of this letter in the space provided below to evidence your assent. In the meantime, should you have any questions please do not hesitate to contact me by email or telephone.

Very truly yours,

A handwritten signature in blue ink, appearing to read "SJ", is written over the printed name and email address.

Steven C. Judge
sjudge@aspendental.com

Agreed to this ____ day of _____, 2012:



ASPEN DENTAL OF CACHE VALLEY

October 18, 2012

Page 3 of 3

ADMI's Federal Trademark Registrations for ASPENDENTAL Family of Marks

U.S. Trademark Registration Number	Mark
4048804	ASPENDENTAL PRACTICE MADE PERFECT
4043276	ASPENDENTAL IT'S TIME TO SMILE.
3295706	ASPENDENTAL MORE REASONS TO SMILE.
3304705	ASPENDENTAL
3228902	ASPENDENTAL MORE REASONS TO SMILE
3228876	ASPENDENTAL GET YOUR SMILE BACK
3920846	ASPENDENTAL SMILESAVER
3887722	ASPENDENTAL SMILE SQUAD
3805810	ASPENDENTAL RETHINK YOUR DENTAL CAREER
3805809	ASPENDENTAL RETHINK DENTISTRY
3706440	ASPENDENTAL WHEN I SEE YOU SMILE.
3513271	ASPENDENTAL LET US HELP YOU FIND YOUR SMILE.
3415112	ASPENDENTAL ADVANTAGE
2864022	ASPENDENTAL

**EXHIBIT
F**



Teresa Thomas <teresa@teamida.com>

Letter to Aspen Dental of Cache Valley regarding use of service mark

Carter Mackley <carter.mackley@mackleylaw.com>

Tue, Nov 13, 2012 at 2:02 PM

To: "Judge, Steven" <sjudge@aspendental.com>

Cc: Teresa Thomas <teresa@teamida.com>

I'm sure they would be willing to discussion it, and I will forward your request to them. I note however, there are several practices in Utah, not related to Aspen Dental of Cache Valley, that use the name Aspen. See <https://secure.utah.gov/bes/action/index>. Does that affect your enthusiasm for purchasing the rights?

Best regards,

Carter

Carter Mackley | Mackley & Mackley, PLLC | (206) 249-9678 | carter.mackley@mackleylaw.com

Check out our new website www.startuplawtalk.com for legal info and workshops for startups.

From: Judge, Steven [mailto:sjudge@aspendental.com]

Sent: Tuesday, November 13, 2012 12:58 PM

To: Carter Mackley

Subject: RE: Letter to Aspen Dental of Cache Valley regarding use of service mark

Thanks for the information Carter. Your client's rights in the area where it is doing business appear to be superior to ADMI's rights. Note that our review of publicly available information did not reveal that your client's first use was prior to ADMI's registration, so the information you provided is quite helpful.

Given our current expansion plans, we would be interested in discussing purchasing your client's rights to the name. Note that we have no immediate plans to enter Utah, but it may be something that we entertain in the next 3-5 years. Meantime, if your client has any interest in selling the name and rebranding, please let me know.

Thank you.

Steve

Steven C. Judge

Corporate Counsel

Aspen Dental Management, Inc.

281 Sanders Creek Parkway | East Syracuse, NY 13057

Office: 315.454.6000 x1320 | Mobile: 315.415.7815

www.aspendental.com | sjudge@aspendental.com

From: Carter Mackley [<mailto:carter.mackley@mackleylaw.com>]

Sent: Tuesday, November 13, 2012 3:50 PM

To: Judge, Steven

Cc: Teresa Thomas

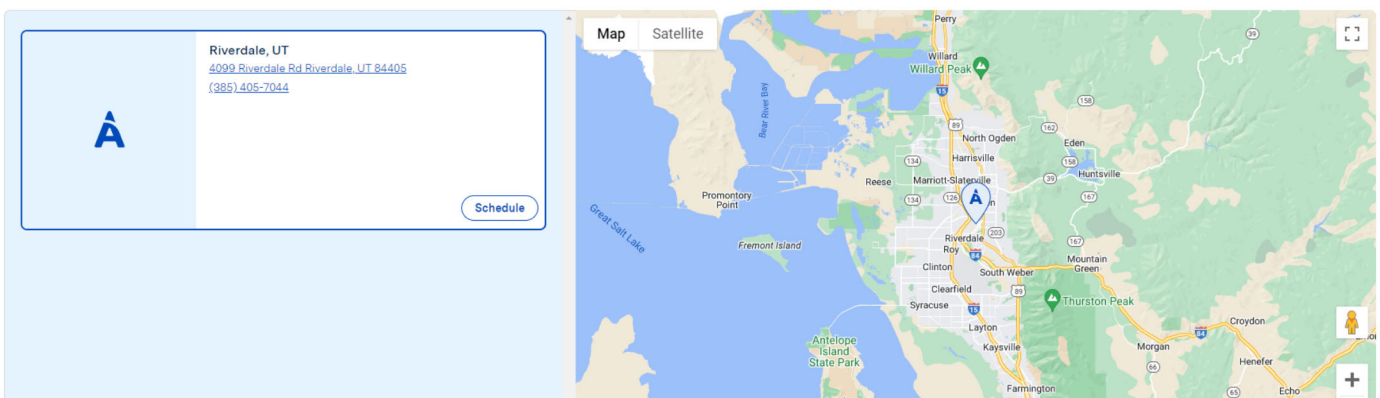
Subject: Letter to Aspen Dental of Cache Valley regarding use of service mark

[Quoted text hidden]

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